



ANNO TRICESIMO

ELIZABETHAE II REGINAE

A.D. 1981

No. 31 of 1981

An Act to continue the corporation known as the "South Australian Land Commission" in existence under the name the "South Australian Urban Land Trust"; to prescribe the powers and functions of the South Australian Urban Land Trust; to repeal the Land Commission Act, 1973-1977; and for other purposes.

[Assented to 19 March 1981]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the "Urban Land Trust Act, 1981".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Arrangement.

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—THE SOUTH AUSTRALIAN URBAN LAND TRUST

DIVISION I—ESTABLISHMENT AND CONSTITUTION OF THE TRUST

DIVISION II—POWERS AND FUNCTIONS OF THE TRUST

DIVISION III—STAFF, ETC.

PART III—FINANCIAL PROVISIONS

PART IV—MISCELLANEOUS

Repeal.

4. The Land Commission Act, 1973-1977, is repealed.

5. In this Act, unless the contrary intention appears—

“the Chairman” means the chairman of the Trust:

“the Fund” means The South Australian Urban Land Trust Fund maintained under Part III of this Act:

“land” includes any estate or interest in land and any easement, right, power, or privilege in, under, over, affecting or in connection with land:

“member” in relation to the Trust includes the Chairman:

“the repealed Act” means the Land Commission Act, 1973-1977, repealed by this Act:

“the Trust” means the corporation known as the “South Australian Land Commission” established under the repealed Act and continued in existence under this Act under the name “South Australian Urban Land Trust”.

PART II

PART II

THE SOUTH AUSTRALIAN URBAN LAND TRUST

DIVISION I—ESTABLISHMENT AND CONSTITUTION OF THE TRUST

DIVISION I

6. (1) The corporation established under the repealed Act under the name “South Australian Land Commission” shall continue in existence under the name “South Australian Urban Land Trust”.

Establishment
of South
Australian
Urban Land
Trust.

(2) The Trust—

(a) shall continue to be a body corporate with perpetual succession and a common seal;

(b) shall be capable of suing and of being sued;

(c) shall be capable of holding, dealing with, and disposing of real and personal property;

(d) shall be capable of acquiring or incurring any other rights or liabilities;

(e) shall hold all its property for and on behalf of the Crown;

and

(f) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) Where a document purports to bear the common seal of the Trust, it shall be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Trust has been duly affixed to that document.

PART II
DIVISION I

(4) The change of the name of the corporation established under the repealed Act and continued in existence under this Act shall not affect its rights or obligations and any reference to the "South Australian Land Commission" in any Act, statutory instrument, document or writing of any kind shall, so far as the context admits, be construed as a reference to the "South Australian Urban Land Trust".

**Vacation of
offices of
members of
Land
Commission.**

7. The members of the South Australian Land Commission holding office under the repealed Act immediately before the commencement of this Act shall, on the commencement of this Act, vacate their respective offices.

**Constitution
of the Trust.**

8. (1) The Trust shall consist of five members appointed by the Governor upon the nomination of the Minister, of whom—

- (a) one shall be a person employed in private industry who in the opinion of the Minister has appropriate knowledge and experience of urban land development;
- (b) one shall be a person who in the opinion of the Minister has appropriate knowledge and experience of local government;
- (c) one shall be a person nominated by the Minister after consultation with the appropriate Minister of the Government of the Commonwealth;

and

- (d) two shall be officers of a Department or agency of the Government of the State.

(2) One member of the Trust shall be appointed by the Governor to be chairman of the Trust.

**Term and
conditions
of office
of members.**

9. (1) A member of the Trust shall be appointed for such term of office, being not less than two years nor more than four years, and upon such conditions, as may be determined by the Governor and, upon the expiration of his term of office, shall be eligible for re-appointment.

(2) The Governor may appoint a suitable person to be a deputy of a member of the Trust, and such a person, while acting in the absence of that member, shall be deemed to be a member of the Trust, and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed a deputy.

(3) The Governor may remove a member of the Trust from office for—

- (a) any breach of, or non-compliance with, the conditions of his appointment;
- (b) mental or physical incapacity;
- (c) neglect of duty;

or

- (d) dishonourable conduct.

(4) The office of a member of the Trust shall become vacant if—

- (a) he dies;
- (b) his term of office expires;

(c) he resigns by written notice addressed to the Minister;

or

(d) he is removed from office by the Governor pursuant to subsection (3).

(5) Upon the office of a member of the Trust becoming vacant, a person shall be appointed, in accordance with this Act, to the vacant office, but where the office of a member of the Trust becomes vacant before the expiration of the term for which he was appointed, the person appointed in his place shall be appointed only for the balance of the term of his predecessor.

10. (1) A member of the Trust shall be entitled to receive such remuneration and expenses as may be determined by the Governor. Remuneration and expenses.

(2) Any amount to which a member of the Trust is entitled under this section shall be paid out of the Fund.

11. (1) Three members of the Trust shall constitute a quorum of the Trust, and no business shall be transacted at a meeting unless a quorum is present. Quorum, etc.

(2) A decision in which any three members of the Trust concur shall be a decision of the Trust.

(3) The Chairman shall preside at any meeting of the Trust at which he is present, and in the absence of the Chairman from a meeting of the Trust, the members present shall decide who is to preside at that meeting.

(4) The Trust shall meet for the transaction of business at least eight times in each year.

(5) Subject to this Act, the business of the Trust shall be conducted in such manner as the Trust determines.

12. (1) An act or proceeding of the Trust shall not be invalid by reason only of a vacancy in its membership, and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding shall be as valid and effectual as if the member had been duly nominated or appointed. Validity of acts of the Trust, etc.

(2) No liability shall attach to a member of the Trust for any act or omission by him or by the Trust in good faith and in the exercise of his or its powers or functions, or in the discharge of his or its duties, under this Act.

(3) A liability that would, but for subsection (3), lie against a member of the Trust shall lie against the Crown.

13. (1) A member of the Trust who is in any way directly or indirectly interested in a contract or proposed contract made by, or in the contemplation of, the Trust shall disclose the nature of his interest at a meeting of the Trust, and the disclosure shall be recorded in the minutes of the Trust. Disclosure of interest.

(2) A member of the Trust who is in any way directly or indirectly interested in a contract or proposed contract made by, or in the contemplation of, the Trust shall not take part in any decision of the Trust with respect of that contract.

PART II
DIVISION II

Powers and
functions
of the Trust.

DIVISION II—POWERS AND FUNCTIONS OF THE TRUST

14. (1) The functions of the Trust are to hold land and, as prevailing circumstances require, to make land available for, and otherwise assist in, the orderly establishment and development of new urban areas.

(2) In the performance of its functions under this Act, the Trust may—

- (a) acquire land with the prior specific approval of the Minister;
- (b) sell, grant, grant a lease or licence in respect of, mortgage, charge, encumber or otherwise deal with land;
- (c) divide land for the purpose of making land available in parcels—

- (i) that are suitable for further division and development for residential, commercial or industrial purposes or for further development for commercial or industrial purposes;

or

- (ii) that are required for or in connection with the provision of public or community services, facilities or amenities, and carry out any works necessary for that purpose;

- (d) enter into contracts or arrangements with any person or body of persons;

and

- (e) exercise any other powers prescribed by this Act or necessary for or incidental to the performance of its functions.

(3) The provisions of the Land Acquisition Act, 1969-1972, shall not apply to or in relation to the acquisition of land by the Trust.

(4) The Trust may, notwithstanding the provisions of this section, with the approval of the Minister, complete any programme of division, development and disposal of land commenced before the commencement of this Act and, for that purpose, do anything that the South Australian Land Commission would have been authorized to do had this Act not been enacted.

(5) The Trust shall conduct its business in accordance with established principles of financial management and economy.

(6) In the performance of its functions under this Act, the Trust shall be subject to the general control and direction of the Minister.

Power of
delegation.

15. (1) The Trust may delegate to any member, officer or employee of the Trust any of its powers or functions under this Act.

(2) Any such delegation shall be revocable at will and shall not derogate from the power of the Trust to act itself in any matter.

DIVISION III

Officers and
employees.

DIVISION III—STAFF, ETC.

16. (1) The Governor may, subject to and in accordance with the Public Service Act, 1967-1978, appoint such officers as he considers necessary or expedient for the proper administration of this Act.

(2) An officer so appointed shall, subject to this section, hold office in accordance with the provisions of the Public Service Act, 1967-1978.

(3) The Minister may by notice published in the *Gazette* determine—

(a) that specified provisions of the Public Service Act, 1967-1978, and of the regulations thereunder, shall not apply to or in relation to officers appointed pursuant to subsection (1);

and

(b) that provisions contained, or referred to, in the notice shall apply to and in relation to those officers in lieu of those provisions,

and the notice shall have effect in accordance with its terms.

(4) The Minister may, by notice published in the *Gazette*, vary or revoke a notice published under subsection (3).

(5) The Trust may, with the approval of the Minister, appoint such officers and employees as it considers necessary or expedient for the proper administration of this Act.

(6) A person appointed under subsection (5) shall hold office upon terms and conditions determined from time to time by the Governor, and the Public Service Act, 1967-1978, shall not apply to or in relation to persons so appointed.

PART III

PART III

FINANCIAL PROVISIONS

17. (1) The Trust may borrow money from the Treasurer, or, with the consent of the Treasurer, from any other person for the purpose of carrying out any of its functions under this Act.

Power of the Trust to borrow.

(2) Any liability incurred with the consent of the Treasurer under subsection (1) is hereby guaranteed by the Treasurer.

(3) Any liability incurred by the Treasurer under a guarantee arising by virtue of subsection (2) shall be satisfied out of the General Revenue of this State which is hereby, to the necessary extent, appropriated accordingly.

18. (1) The fund maintained under the repealed Act shall continue in existence under the name the "South Australian Urban Land Trust Fund" and shall be kept and maintained by the Trust.

Establishment and control of the Fund.

(2) The following moneys shall be paid into the Fund:

(a) any moneys paid to the Trust by the Government of the Commonwealth;

(b) any moneys appropriated for the purposes of the Trust by Parliament;

PART III

- (c) any moneys borrowed by the Trust under this Act;
- (d) the proceeds of any sale or dealing in land by the Trust;
- (e) the rent derived from the leasing of land by the Trust;
- (f) any income derived from investment of the Fund;
- (g) any moneys received by the Trust by way of gift, bequest or otherwise;
- (h) any other moneys received by the Trust.

(3) The Fund shall be applied by the Trust in the performance of its functions under this Act, including the provision of financial assistance for public or community services, facilities or amenities in new urban areas.

(4) Subject to this Act, the Trust may draw upon, and otherwise deal with, the Fund in such manner as may be approved by the Treasurer.

Investment
of moneys
in the
Fund.

19. The Trust may, with the approval of the Treasurer, invest any of the moneys standing to the credit of the Fund that are not immediately required for the purposes of this Act in such manner as may be approved by the Treasurer.

Accounts
and audit.

20. (1) The Trust shall cause proper accounts to be kept of its financial affairs and shall in respect of each financial year prepare a statement of accounts in a form approved by the Treasurer.

(2) The Auditor-General may at any time, and shall at least once in every year, audit the accounts of the Trust.

(3) The Auditor-General shall have and may exercise in respect of the moneys and accounts of the Trust and the persons dealing therewith the powers that are vested in the Auditor-General by the Audit Act, 1921-1975, in respect of public accounts and accounting officers.

PART IV

PART IV

MISCELLANEOUS

Report.

21. (1) The Trust shall as soon as practicable after the thirtieth day of June in each year submit a report to the Minister upon the conduct of the business of the Trust during the financial year ending on that day together with the audited statement of accounts of the Trust for that financial year.

(2) The Minister shall, as soon as practicable after receipt of the report and audited statement of accounts cause copies of the report and statement to be laid before each House of Parliament.

22. (1) The Governor may make such regulations as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), those regulations may—

- (a) provide for the manner in which meetings of the Trust are to be convened;
- (b) regulate the proceedings of the Trust;
- (c) lay down conditions upon which the Trust may acquire, deal with, or dispose of land or other property;
- and
- (d) otherwise regulate the transaction of business by the Trust.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor